

**Notice of Allowability**

Application No.

09/858,366

Examiner

Anu Ramana

Applicant(s)

BRAUCKMAN ET AL.

Art Unit

3733

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a telephone interview conducted on September 27, 2005.
2. ☒ The allowed claim(s) is/are 7-11, 14-18, 20-31, 33 and 35-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
EDUARDO C. ROBERT  
PRIMARY EXAMINER

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the Attorney of Record, Kevin J. Dunleavy, on September 27, 2005.

The application has been amended as follows:

In claim 7, line 8: insert after "housed" and before "; and"

- -, and wherein the removable portion of the catheter body is a catheter attachment which encloses the cavity within which the radioactive source is housed, and the catheter attachment includes a plug which may be removed to provide access to the interior of said cavity - -

Cancel claim 13.

Insert the following claims.

- - 40. (New) A catheter useful for radiation treatment of a body which comprises:  
an elongate, flexible catheter body having a proximal section and a distal section;  
a radioactive source housed within a cavity in the distal section of the catheter body, the radioactive source providing radiation in an amount of from about 0.5 microcuries to about 300 curies per centimeter length of the radioactive portion of the catheter body;  
at least a portion of the catheter body being removable to provide access to the cavity wherein the radioactive source is housed;  
a retractable sheath which comprises a radiation shielding material, said retractable sheath being positionable in a first, shielding position, wherein the sheath encloses the portion of the catheter body in which the radioactive source is housed, and a second, retracted position which exposes the portion of the catheter body in which the

Art Unit: 3733

radioactive source is housed to permit radiation treatment of a desired location in the body; and

wherein the catheter body is sized and has sufficient strength and flexibility to navigate a portion of a body so that the radioactive source can be positioned at a desired location for treatment.

41. (New) A catheter as claimed in claim 40, wherein the radioactive source is provided in a form selected from the group consisting of: microspheres, pellets, fiber, ribbon, mesh, patch and film.

42. (New) A catheter as claimed in claim 40, wherein the radioactive source is immobilized in a polymeric material.

43. (New) A catheter as claimed in claim 42, wherein the polymeric material is a flexible polymeric material selected from the group consisting of elastomers, gels, hydrogels and foams.

44. (New) A catheter as claimed in claim 40, wherein the radioactive source comprises carrier-free palladium-103.

45. (New) A catheter as claimed in claim 43, wherein the polymeric material is selected from the group consisting of: polyimides, polyolefins, and polyesters. - -

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

Art Unit: 3733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR *Anunadha Ramana*  
October 14, 2005

  
EDUARDO C. ROBERT  
PRIMARY EXAMINER